

Central Administrative Tribunal

Calcutta Bench

1. Achala Ghosh Widow of Late Khagendranath Ghosh (Ex. Junior Technician in the Coke Ovens & Coal Chemicals Department of DSP) aged about 54 years, by profession - Housewife.
2. Tanmoy Ghosh S/o Late Khagendranath Ghosh (Ex. Junior Technician in the Coke Ovens & Coal Chemicals Department of DSP) aged about 25 years, by profession - unemployed.

Both the applicants are at present residing at Vill: Dubchururia, P.O. Andal Gram, Dist. Burdwan, State - West Bengal, Pin - 713321.

... Applicants

- Vs -

1. Steel Authority of India Limited, a Government of India undertaking service through its Chairman having its office at Ispat Bhawan, Lodi Road, New Delhi 110003.
2. Durgapur Steel Plant, an unit of Steel Authority of India Limited service through the General Manager, having its office at Main Administrative Building, Post Office: Durgapur, 3, District, Burdwan - 713203.
3. General Manager (P&A)
Durgapur Steel Plant
Main Administrative Building,
Post Office 3, District Burdwan - 713203.

4. Deputy General Manager (1/C)
CO & CC (Operation Department),
Steel Authority of India Limited
Durgapur Steel Plant
Coke Ovens & Coal Chemicals
Main Administrative Building,
Post Office Durgapur - 3,
District Burdwan - 713203.

5. Dy. Manager (Pers-NW),
Steel Authority of India Limited
Durgapur Steel Plant (Personnel Department)
Main Administrative Building,
Post Office Durgapur-3,
District Burdwan - 713203.

... Respondents

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CALCUTTA BENCH
KOLKATA

No.350/00612/2016

Present : HON'BLE SHRI A.K.PATTNAIK, JUDICIAL MEMBER

For the Applicant : Mr. C. Sinha, Counsel

For the Respondents : Mrs. R. Basu, Counsel

Date of hearing : 15.02.2018

Date of order: 11.04.2018

O R D E R

A.K.PATTNAIK, MEMBER (J)

The case of the applicants, in brief, is that Late K.N.Ghosh (husband of Applicant No.1 & father of Applicant No.2) was working as Jr. Technician in the Coke Ovens and Coal Chemicals Department of DSP and while working as such, due to his serious illness, he was hospitalized on 09/08/2015 where it was dictated that he was suffering from Brain Tumour and necessary surgery was conducted on 04/09/2015. As there was no possibility of his return to duty, Late Ghosh submitted an application on 29/09/2015 requesting retirement on medical invalidation and subsequent thereto he expired on 07/10/2015. Thereafter by making representation dated 04/01/2016, applicant no.1 requested employment on compassionate ground in favour of applicant no.2 to sustain their livelihood. Respondents rejected the same on 30/01/2016. Thus being aggrieved by such order of rejection the present OA has been filed seeking to set aside/quash the impugned order of rejection dated 30/01/2016 and to direct



the Respondents to provide employment assistance to applicant

No.2.

2. Despite adequate opportunities the Respondents have chosen themselves not to file any reply. Hence, the matter was fixed for hearing and final disposal.

3. Heard respective parties and perused the records.

After closure of the hearing, respective parties have also filed written notes of submission which have been taken note of.

4. I find that the Respondents rejected the case of the applicants for providing employment assistance on the ground that the employee concerned applied for retirement on medical invalidation on 29/09/2015 but expired on 07/10/2015 i.e before being appeared before the Medical Board held on 28/10/2015 and, therefore, as per the guidelines dated 01/01/2011, applicant no.2 is not entitled to appointment on compassionate ground. The order of rejection dated 30/01/2016 is reproduced herein below:

“ Sub: Compassionate Employment
Ref : Your appeal dated 04/01/2016

Dear Madam,

This has reference to your appeal cited above, pertaining to compassionate employment of your son. The matter has been examined and following are clarified.

Khagendra Nath Ghosh while was in services of the Company, applied on 29/09/2015 seeking his Medical Invalidation. It is regret to state that the ex-employee concerned i.e. your husband could not appear before the 'Medical Disability cum Invalidation Board' [MDB] held on 28/10/2015 as he expired on 07/10/2015.

The name of Late Khagendra Nath Ghosh was struck off the rolls of the Company w.e.f. 07/10/2015 due to his death on the same day at Fortis Hospital, Kolkata.



You may be aware that 'new guidelines & procedure for dealing with compassionate cases' has been made effective from 01.01.2011 in Durgapur Steel Plant. As per the said guidelines

- If an employee dies due to disease or otherwise before declaration of Medical invalidation by the committee, then such death shall be considered as natural death.
- The cases of natural death while on duty shall not be considered for compassionate employment as per the said guidelines,

Hence, the case of Late Khagendra Nath Ghosh is outside the purview of the relevant guidelines and is not eligible for consideration of compassionate employment.

In light of the above, DSP regrets to inform you that the request for consideration of employment of your son on compassionate ground cannot be acceded to.

Hope, this clarifies the DSP's position. No further communication in this regard will be entertained.

Thanking you,

Yours sincerely,

Dy. Manager(Pers-NW)
For & on behalf of SAIL/DSP"

Learned Counsel appearing for the Respondents reiterated the very stand in course of hearing but the argument advanced by him does not appeal to logic because the very aim and object of issuing such scheme is to see that the family members should not finance difficulties after the immediate bread earner of the family. The suffering of the applicant leading to hospitalization and death is not in dispute. Submission of application dated 29/9/2015 seeking retirement on medical invalidation by the employee concerned is also not in dispute. Holding of medical board after the death of the employee concerned is not in dispute. Death is inevitable. The application submitted by the employee concerned to retire on medical invalidation as he was not capable to discharge



duty due to suffering from brain tumor is established by his death soon after his brain operation and, therefore, merely because he expired before appearing the medical board scheduled to be held on 28/10/2015 cannot be said that he was capable of returning to duty. Too much hyper technicality to deprive the legitimate right which he is entitled to under Rule or law does not sound to appeal.

Had the Respondents held the Board on receipt of application dated 29/09/2015 this situation would not have arisen. It is the case of the applicants that the employee concerned was the only bread earner of their family and after his death the family members are facing financial crunch/hardship.

In view of the above discussions made above I have no alternative but to allow this OA. Accordingly, the order of rejection dated 30/01/2016 is quashed and the Respondents are hereby directed to consider the case of applicant No.2 for providing employment assistance on compassionate ground within a period of 60 (sixty) days from the date of receipt of a copy of this order.

No costs.



(A.K.Patil)
Judicial Member